

Assembly Bill No. 2247

CHAPTER 750

An act to amend Section 640 of the Penal Code, and to amend Section 99580 of the Public Utilities Code, relating to public transportation.

[Approved by Governor September 29, 2012. Filed with
Secretary of State September 29, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2247, Bonnie Lowenthal. Public transportation: offenses.

(1) Existing law provides that eating, drinking, or smoking in or on a system facility or vehicle in areas where those activities are prohibited, disturbing another person by loud or unreasonable noise, expectorating upon a system facility or vehicle, or skateboarding, roller skating, bicycle riding, roller blading, or operating a motorized scooter or other device in a system facility, vehicle, or parking structure is an infraction for the first or 2nd violation, punishable by a fine not to exceed \$250 and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during the violator's hours of school attendance or employment. Specified public transportation agencies, including, but not limited to, the City and County of San Francisco and the Los Angeles County Metropolitan Transportation Authority are authorized to enact and enforce ordinances providing that a person who is the subject of a citation for any of the acts described, such as fare evasion, on or in a facility or vehicle of the system for which the public transportation system has jurisdiction shall, under the circumstances set forth by the ordinance, be afforded an opportunity to complete an administrative process that imposes only an administrative penalty enforced in a civil proceeding.

This bill would make the above penalties and administrative process applicable to the sale or peddling of any goods, merchandise, property, or services of any kind on the facilities, vehicles, or property of the public transportation system, if the public transportation system has prohibited those acts and neither the public transportation system nor its duly authorized representative has granted written consent to engage in those acts. Because this bill would create a new crime, the bill would impose a state-mandated local program.

(2) Existing law provides for the issuance of a notice of fare evasion or passenger conduct violation in specified circumstances.

This bill would authorize the officer issuing a notice described above to correct any incorrect data on the notice.

(3) The bill would also make conforming changes.

(4) This bill would incorporate additional changes to Section 640 of the Penal Code and Section 99580 of the Public Utilities Code proposed by AB

492, to be operative only if AB 492 and this bill are both chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 640 of the Penal Code is amended to read:

640. (a) (1) Any of the acts described in paragraphs (1) to (6), inclusive, of subdivision (b) is an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during the violator's hours of school attendance or employment. Any of the acts described in paragraphs (1) to (3), inclusive, of subdivision (c), upon a first or second violation, is an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during the violator's hours of school attendance or employment. A third or subsequent violation of any of the acts described in paragraphs (1) to (3), inclusive, of subdivision (c) is a misdemeanor punishable by a fine of not more than four hundred dollars (\$400) or by imprisonment in a county jail for a period of not more than 90 days, or by both that fine and imprisonment. Any of the acts described in subdivision (d) shall be punishable by a fine of not more than four hundred dollars (\$400), by imprisonment in a county jail for a period of not more than 90 days, or by both that fine and imprisonment.

(2) This section shall apply only to acts committed on or in a facility or vehicle of a public transportation system.

(b) (1) Eating or drinking in or on a system facility or vehicle in areas where those activities are prohibited by that system.

(2) Disturbing another person by loud or unreasonable noise.

(3) Smoking in or on a system facility or vehicle in areas where those activities are prohibited by that system.

(4) Expectoring upon a system facility or vehicle.

(5) Skateboarding, roller skating, bicycle riding, roller blading, or operating a motorized scooter or similar device, as defined in Section 407.5 of the Vehicle Code in a system facility, vehicle, or parking structure. This paragraph does not apply to an activity that is necessary for utilization of the transit facility by a bicyclist, including, but not limited to, an activity that is necessary for parking a bicycle or transporting a bicycle aboard a transit vehicle, if that activity is conducted with the permission of the transit

agency in a manner that does not interfere with the safety of the bicyclist or other patrons of the transit facility.

(6) Sale or peddling of any goods, merchandise, property, or services of any kind whatsoever on the facilities, vehicles, or property of the public transportation system, if the public transportation system has prohibited those acts and neither the public transportation system nor its duly authorized representatives have granted written consent to engage in those acts.

(c) (1) Evasion of the payment of a fare of the system. For purposes of this section, fare evasion includes entering an enclosed area of a public transit facility beyond posted signs prohibiting entrance without obtaining valid fare, in addition to entering a transit vehicle without valid fare.

(2) Misuse of a transfer, pass, ticket, or token with the intent to evade the payment of a fare.

(3) (A) Unauthorized use of a discount ticket or failure to present, upon request from a transit system representative, acceptable proof of eligibility to use a discount ticket, in accordance with Section 99155 of the Public Utilities Code and posted system identification policies when entering or exiting a transit station or vehicle. Acceptable proof of eligibility must be clearly defined in the posting.

(B) In the event that an eligible discount ticket user is not in possession of acceptable proof at the time of request, any citation issued shall be held for a period of 72 hours to allow the user to produce acceptable proof. If the proof is provided, the citation shall be voided. If the proof is not produced within that time period, the citation shall be processed.

(d) (1) Willfully disturbing others on or in a system facility or vehicle by engaging in boisterous or unruly behavior.

(2) Carrying an explosive, acid, or flammable liquid in a public transit facility or vehicle.

(3) Urinating or defecating in a system facility or vehicle, except in a lavatory. However, this paragraph shall not apply to a person who cannot comply with this paragraph as a result of a disability, age, or a medical condition.

(4) Willfully blocking the free movement of another person in a system facility or vehicle. This paragraph shall not be interpreted to affect any lawful activities permitted or First Amendment rights protected under the laws of this state or applicable federal law, including, but not limited to, laws related to collective bargaining, labor relations, or labor disputes.

(5) Willfully tampering with, removing, displacing, injuring, or destroying any part of any facility or vehicle of a public transportation system.

(e) Notwithstanding subdivision (a), the City and County of San Francisco, the Los Angeles County Metropolitan Transportation Authority, the Southern California Regional Rail Authority, the Santa Clara Valley Transportation Authority, the Sacramento Regional Transit District, Long Beach Transit, Foothill Transit, the North County Transit District, and the Alameda-Contra Costa Transit District may enact and enforce an ordinance providing that a person who is the subject of a citation for any of the acts described in subdivision (b) of Section 99580 of the Public Utilities Code

on or in a facility or vehicle described in subdivision (a) for which the City and County of San Francisco, the Los Angeles County Metropolitan Transportation Authority, the Southern California Regional Rail Authority, the Santa Clara Valley Transportation Authority, the Sacramento Regional Transit District, Long Beach Transit, Foothill Transit, the North County Transit District, or the Alameda-Contra Costa Transit District has jurisdiction shall, under the circumstances set forth by the ordinance, be afforded an opportunity to complete an administrative process that imposes only an administrative penalty enforced in a civil proceeding. The ordinance for imposing and enforcing the administrative penalty shall be governed by Chapter 8 (commencing with Section 99580) of Part 11 of Division 10 of the Public Utilities Code and shall not apply to minors.

(f) For purposes of this section, a “facility or vehicle of a public transportation system” means any of the following:

(1) A facility or vehicle of a public transportation system as defined by Section 99211 of the Public Utilities Code.

(2) A facility of, or vehicle operated by any entity subsidized by, the Department of Transportation.

(3) A facility or vehicle of the Southern California Regional Rail Authority, whether owned or leased.

(4) A leased or rented facility or vehicle for which any of the entities described in paragraph (1), (2), or (3) incurs costs of cleanup, repair, or replacement as a result of any of those acts.

SEC. 1.5. Section 640 of the Penal Code is amended to read:

640. (a) (1) Any of the acts described in paragraphs (1) to (6), inclusive, of subdivision (b) is an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during the violator’s hours of school attendance or employment. Any of the acts described in paragraphs (1) to (3), inclusive, of subdivision (c), upon a first or second violation, is an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during the violator’s hours of school attendance or employment. A third or subsequent violation of any of the acts described in paragraphs (1) to (3), inclusive, of subdivision (c) is a misdemeanor punishable by a fine of not more than four hundred dollars (\$400) or by imprisonment in a county jail for a period of not more than 90 days, or by both that fine and imprisonment. Any of the acts described in subdivision (d) shall be punishable by a fine of not more than four hundred dollars (\$400), by imprisonment in a county jail for a period of not more than 90 days, or by both that fine and imprisonment.

(2) This section shall apply only to acts committed on or in a facility or vehicle of a public transportation system.

(b) (1) Eating or drinking in or on a system facility or vehicle in areas where those activities are prohibited by that system.

(2) Disturbing another person by loud or unreasonable noise.

(3) Smoking in or on a system facility or vehicle in areas where those activities are prohibited by that system.

(4) Expectorating upon a system facility or vehicle.

(5) Skateboarding, roller skating, bicycle riding, roller blading, or operating a motorized scooter or similar device, as defined in Section 407.5 of the Vehicle Code in a system facility, vehicle, or parking structure. This paragraph does not apply to an activity that is necessary for utilization of the transit facility by a bicyclist, including, but not limited to, an activity that is necessary for parking a bicycle or transporting a bicycle aboard a transit vehicle, if that activity is conducted with the permission of the transit agency in a manner that does not interfere with the safety of the bicyclist or other patrons of the transit facility.

(6) Sale or peddling of any goods, merchandise, property, or services of any kind whatsoever on the facilities, vehicles, or property of the public transportation system, if the public transportation system has prohibited those acts and neither the public transportation system nor its duly authorized representatives have granted written consent to engage in those acts.

(c) (1) Evasion of the payment of a fare of the system. For purposes of this section, fare evasion includes entering an enclosed area of a public transit facility beyond posted signs prohibiting entrance without obtaining valid fare, in addition to entering a transit vehicle without valid fare.

(2) Misuse of a transfer, pass, ticket, or token with the intent to evade the payment of a fare.

(3) (A) Unauthorized use of a discount ticket or failure to present, upon request from a transit system representative, acceptable proof of eligibility to use a discount ticket, in accordance with Section 99155 of the Public Utilities Code and posted system identification policies when entering or exiting a transit station or vehicle. Acceptable proof of eligibility must be clearly defined in the posting.

(B) In the event that an eligible discount ticket user is not in possession of acceptable proof at the time of request, any citation issued shall be held for a period of 72 hours to allow the user to produce acceptable proof. If the proof is provided, the citation shall be voided. If the proof is not produced within that time period, the citation shall be processed.

(d) (1) Willfully disturbing others on or in a system facility or vehicle by engaging in boisterous or unruly behavior.

(2) Carrying an explosive, acid, or flammable liquid in a public transit facility or vehicle.

(3) Urinating or defecating in a system facility or vehicle, except in a lavatory. However, this paragraph shall not apply to a person who cannot comply with this paragraph as a result of a disability, age, or a medical condition.

(4) Willfully blocking the free movement of another person in a system facility or vehicle. This paragraph shall not be interpreted to affect any lawful activities permitted or First Amendment rights protected under the laws of this state or applicable federal law, including, but not limited to, laws related to collective bargaining, labor relations, or labor disputes.

(5) Willfully tampering with, removing, displacing, injuring, or destroying any part of any facility or vehicle of a public transportation system.

(e) Notwithstanding subdivision (a), a public transportation agency, as defined in paragraph (4) of subdivision (c) of Section 99580 of the Public Utilities Code, may enact and enforce an ordinance providing that a person who is the subject of a citation for any of the acts described in subdivision (b) of Section 99580 of the Public Utilities Code on or in a facility or vehicle described in subdivision (a) for which the public transportation agency has jurisdiction shall, under the circumstances set forth by the ordinance, be afforded an opportunity to complete an administrative process that imposes only an administrative penalty enforced in a civil proceeding. The ordinance for imposing and enforcing the administrative penalty shall be governed by Chapter 8 (commencing with Section 99580) of Part 11 of Division 10 of the Public Utilities Code and shall not apply to minors.

(f) For purposes of this section, a “facility or vehicle of a public transportation system” means any of the following:

(1) A facility or vehicle of a public transportation system as defined by Section 99211 of the Public Utilities Code.

(2) A facility of, or vehicle operated by any entity subsidized by, the Department of Transportation.

(3) A facility or vehicle of the Southern California Regional Rail Authority, whether owned or leased.

(4) A leased or rented facility or vehicle for which any of the entities described in paragraph (1), (2), or (3) incurs costs of cleanup, repair, or replacement as a result of any of those acts.

SEC. 2. Section 99580 of the Public Utilities Code is amended to read:

99580. (a) Pursuant to subdivision (e) of Section 640 of the Penal Code, the City and County of San Francisco, the Los Angeles County Metropolitan Transportation Authority, the Southern California Regional Rail Authority, the Santa Clara Valley Transportation Authority, the Sacramento Regional Transit District, Long Beach Transit, Foothill Transit, the North County Transit District, and the Alameda-Contra Costa Transit District may enact and enforce an ordinance to impose and enforce an administrative penalty for any of the acts described in subdivision (b). The ordinance shall include the provisions of this chapter and shall not apply to minors.

(b) (1) Evasion of the payment of a fare of the system.

(2) Misuse of a transfer, pass, ticket, or token with the intent to evade the payment of a fare.

(3) Playing sound equipment on or in a system facility or vehicle.

(4) Smoking, eating, or drinking in or on a system facility or vehicle in those areas where those activities are prohibited by that system.

(5) Expectorating upon a system facility or vehicle.

(6) Willfully disturbing others on or in a system facility or vehicle by engaging in boisterous or unruly behavior.

(7) Carrying an explosive or acid, flammable liquid, or toxic or hazardous material in a system facility or vehicle.

(8) Urinating or defecating in a system facility or vehicle, except in a lavatory. However, this paragraph shall not apply to a person who cannot comply with this paragraph as a result of a disability, age, or a medical condition.

(9) (A) Willfully blocking the free movement of another person in a system facility or vehicle.

(B) This paragraph shall not be interpreted to affect any lawful activities permitted or first amendment rights protected under the laws of this state or applicable federal law, including, but not limited to, laws related to collective bargaining, labor relations, or labor disputes.

(10) Skateboarding, roller skating, bicycle riding, or roller blading in a system facility, including a parking structure, or in a system vehicle. This paragraph does not apply to an activity that is necessary for utilization of a system facility by a bicyclist, including, but not limited to, an activity that is necessary for parking a bicycle or transporting a bicycle aboard a system vehicle, if that activity is conducted with the permission of the agency of the system in a manner that does not interfere with the safety of the bicyclist or other patrons of the system facility.

(11) (A) Unauthorized use of a discount ticket or failure to present, upon request from a system representative, acceptable proof of eligibility to use a discount ticket, in accordance with Section 99155, and posted system identification policies when entering or exiting a system station or vehicle. Acceptable proof of eligibility must be clearly defined in the posting.

(B) In the event that an eligible discount ticket user is not in possession of acceptable proof at the time of request, an issued notice of fare evasion or passenger conduct violation shall be held for a period of 72 hours to allow the user to produce acceptable proof. If the proof is provided, that notice shall be voided. If the proof is not produced within that time period, that notice shall be processed.

(12) Sale or peddling of any goods, merchandise, property, or services of any kind whatsoever on the facilities, vehicles, or property of the public transportation system without the express written consent of the public transportation system or its duly authorized representatives.

(c) (1) The City and County of San Francisco, the Los Angeles County Metropolitan Transportation Authority, the Santa Clara Valley Transportation Authority, the Sacramento Regional Transit District, the Southern California Regional Rail Authority, Long Beach Transit, Foothill Transit, the North County Transit District, and the Alameda-Contra Costa Transit District may contract with a private vendor or governmental agency for the processing of notices of fare evasion or passenger conduct violation, and notices of delinquent fare evasion or passenger conduct violation pursuant to Section 99581.

(2) For the purpose of this chapter, “processing agency” means either of the following:

(A) The agency issuing the notice of fare evasion or passenger conduct violation and the notice of delinquent fare evasion or passenger conduct violation.

(B) The party responsible for processing the notice of fare evasion or passenger conduct violation and the notice of delinquent violation, if a contract is entered into pursuant to paragraph (1).

(3) For the purpose of this chapter, “fare evasion or passenger conduct violation penalty” includes, but is not limited to, a late payment penalty, administrative fee, fine, assessment, and costs of collection as provided for in the ordinance.

(4) All fare evasion and passenger conduct violation penalties collected by the processing agency in the City and County of San Francisco shall be deposited to the general fund of the City and County of San Francisco.

(5) All fare evasion and passenger conduct violation penalties collected by Long Beach Transit or Foothill Transit shall be deposited in the general fund of the County of Los Angeles.

(6) All fare evasion and passenger conduct violation penalties collected by the Los Angeles County Metropolitan Transportation Authority shall be deposited in the general fund of the county in which the citation is administered.

(7) All fare evasion and passenger conduct violation penalties collected by the Santa Clara Valley Transportation Authority shall be deposited in the general fund of the County of Santa Clara.

(8) All fare evasion and passenger conduct violation penalties collected by the Sacramento Regional Transit District shall be deposited in the general fund of the County of Sacramento.

(9) All fare evasion and passenger conduct violation penalties collected by the Alameda-Contra Costa Transit District shall be deposited in the general fund of the county in which the citation is administered.

(10) All fare evasion and passenger conduct violation penalties collected by the Southern California Regional Rail Authority shall be deposited in the general fund of the county in which the citation is administered.

(11) All fare evasion and passenger conduct violation penalties collected by the North County Transit District shall be deposited in the general fund of the County of San Diego.

(d) (1) If a fare evasion or passenger conduct violation is observed by a person authorized to enforce the ordinance, a notice of fare evasion or passenger conduct violation shall be issued. The notice shall set forth the violation, including reference to the ordinance setting forth the administrative penalty, the date of the violation, the approximate time, and the location where the violation occurred. The notice shall include a printed statement indicating the date payment is required to be made, and the procedure for contesting the notice. The notice shall be served by personal service upon the violator. The notice, or copy of the notice, shall be considered a record kept in the ordinary course of business of the issuing agency and the processing agency, and shall be prima facie evidence of the facts contained in the notice establishing a rebuttable presumption affecting the burden of producing evidence.

(2) When a notice of fare evasion or passenger conduct violation has been served, the person issuing the notice shall file the notice with the processing agency.

(3) If, after a notice of fare evasion or passenger conduct violation is issued pursuant to this section, the issuing officer determines that there is incorrect data on the notice, including, but not limited to, the date or time, the issuing officer may indicate in writing on a form attached to the original notice the necessary correction to allow for the timely entry of the corrected notice on the processing agency's data system. A copy of the correction shall be mailed to the address provided by the person cited at the time the original notice of fare evasion or passenger conduct violation was served.

(4) If a person contests a notice of fare evasion or passenger conduct violation, the issuing agency shall proceed in accordance with Section 99581.

(e) In setting the amounts of administrative penalties for the violations listed in subdivision (b), the City and County of San Francisco, the Los Angeles County Metropolitan Transportation Authority, the Santa Clara Valley Transportation Authority, the Sacramento Regional Transit District, the Southern California Regional Rail Authority, Long Beach Transit, Foothill Transit, the North County Transit District, and the Alameda-Contra Costa Transit District shall not establish penalty amounts that exceed the maximum fine amount set forth in Section 640 of the Penal Code.

(f) A person who receives a notice of fare evasion or passenger conduct violation pursuant to this section shall not be subject to citation for a violation of Section 640 of the Penal Code.

(g) If an entity enacts an ordinance pursuant to this section it shall, both two years and five years after enactment of the ordinance, report all of the following information to the Senate Committee on Transportation and Housing and the Assembly Committee on Transportation:

(1) A description of the ordinance, including the circumstances under which an alleged violator is afforded the opportunity to complete the administrative process.

(2) The amount of the administrative penalties.

(3) The number and types of citations administered pursuant to the ordinance.

(4) To the extent available, a comparison of the number and types of citations administered pursuant to the ordinance with the number and types of citations issued for similar offenses and administered through the courts both in the two years prior to the ordinance and, if any, since enactment of the ordinance.

(5) A discussion of the effect of the ordinance on passenger behavior.

(6) A discussion of the effect of the ordinance on revenues to the entity described in subdivision (a) and, in consultation with the superior courts, the cost savings to the county courts. The superior courts are encouraged to collaborate on and provide data for this report.

SEC. 2.5. Section 99580 of the Public Utilities Code is amended to read:

99580. (a) Pursuant to subdivision (e) of Section 640 of the Penal Code, a public transportation agency may enact and enforce an ordinance to impose

and enforce an administrative penalty for any of the acts described in subdivision (b). The ordinance shall include the provisions of this chapter and shall not apply to minors.

(b) (1) Evasion of the payment of a fare of the system.

(2) Misuse of a transfer, pass, ticket, or token with the intent to evade the payment of a fare.

(3) Playing sound equipment on or in a system facility or vehicle.

(4) Smoking, eating, or drinking in or on a system facility or vehicle in those areas where those activities are prohibited by that system.

(5) Expectorating upon a system facility or vehicle.

(6) Willfully disturbing others on or in a system facility or vehicle by engaging in boisterous or unruly behavior.

(7) Carrying an explosive or acid, flammable liquid, or toxic or hazardous material in a system facility or vehicle.

(8) Urinating or defecating in a system facility or vehicle, except in a lavatory. However, this paragraph shall not apply to a person who cannot comply with this paragraph as a result of a disability, age, or a medical condition.

(9) (A) Willfully blocking the free movement of another person in a system facility or vehicle.

(B) This paragraph shall not be interpreted to affect any lawful activities permitted or first amendment rights protected under the laws of this state or applicable federal law, including, but not limited to, laws related to collective bargaining, labor relations, or labor disputes.

(10) Skateboarding, roller skating, bicycle riding, or roller blading in a system facility, including a parking structure, or in a system vehicle. This paragraph does not apply to an activity that is necessary for utilization of a system facility by a bicyclist, including, but not limited to, an activity that is necessary for parking a bicycle or transporting a bicycle aboard a system vehicle, if that activity is conducted with the permission of the agency of the system in a manner that does not interfere with the safety of the bicyclist or other patrons of the system facility.

(11) (A) Unauthorized use of a discount ticket or failure to present, upon request from a system representative, acceptable proof of eligibility to use a discount ticket, in accordance with Section 99155, and posted system identification policies when entering or exiting a system station or vehicle. Acceptable proof of eligibility must be clearly defined in the posting.

(B) In the event that an eligible discount ticket user is not in possession of acceptable proof at the time of request, an issued notice of fare evasion or passenger conduct violation shall be held for a period of 72 hours to allow the user to produce acceptable proof. If the proof is provided, that notice shall be voided. If the proof is not produced within that time period, that notice shall be processed.

(12) Sale or peddling of any goods, merchandise, property, or services of any kind whatsoever on the facilities, vehicles, or property of the public transportation system without the express written consent of the public transportation system or its duly authorized representatives.

(c) (1) The public transportation agency may contract with a private vendor or governmental agency for the processing of notices of fare evasion or passenger conduct violation, and notices of delinquent fare evasion or passenger conduct violation pursuant to Section 99581.

(2) For the purpose of this chapter, “processing agency” means either of the following:

(A) The agency issuing the notice of fare evasion or passenger conduct violation and the notice of delinquent fare evasion or passenger conduct violation.

(B) The party responsible for processing the notice of fare evasion or passenger conduct violation and the notice of delinquent violation, if a contract is entered into pursuant to paragraph (1).

(3) For the purpose of this chapter, “fare evasion or passenger conduct violation penalty” includes, but is not limited to, a late payment penalty, administrative fee, fine, assessment, and costs of collection as provided for in the ordinance.

(4) For the purpose of this chapter, “public transportation agency” shall mean a public agency that provides public transportation as defined in paragraph (1) of subdivision (f) of Section 1 of Article XIX A of the California Constitution.

(5) All fare evasion and passenger conduct violation penalties collected pursuant to this chapter shall be deposited in the general fund of the county in which the citation is administered.

(d) (1) If a fare evasion or passenger conduct violation is observed by a person authorized to enforce the ordinance, a notice of fare evasion or passenger conduct violation shall be issued. The notice shall set forth the violation, including reference to the ordinance setting forth the administrative penalty, the date of the violation, the approximate time, and the location where the violation occurred. The notice shall include a printed statement indicating the date payment is required to be made, and the procedure for contesting the notice. The notice shall be served by personal service upon the violator. The notice, or copy of the notice, shall be considered a record kept in the ordinary course of business of the issuing agency and the processing agency, and shall be prima facie evidence of the facts contained in the notice establishing a rebuttable presumption affecting the burden of producing evidence.

(2) When a notice of fare evasion or passenger conduct violation has been served, the person issuing the notice shall file the notice with the processing agency.

(3) If, after a notice of fare evasion or passenger conduct violation is issued pursuant to this section, the issuing officer determines that there is incorrect data on the notice, including, but not limited to, the date or time, the issuing officer may indicate in writing on a form attached to the original notice the necessary correction to allow for the timely entry of the corrected notice on the processing agency’s data system. A copy of the correction shall be mailed to the address provided by the person cited at the time the original notice of fare evasion or passenger conduct violation was served.

(4) If a person contests a notice of fare evasion or passenger conduct violation, the issuing agency shall proceed in accordance with Section 99581.

(e) In setting the amounts of administrative penalties for the violations listed in subdivision (b), the public transportation agency shall not establish penalty amounts that exceed the maximum fine amount set forth in Section 640 of the Penal Code.

(f) A person who receives a notice of fare evasion or passenger conduct violation pursuant to this section shall not be subject to citation for a violation of Section 640 of the Penal Code.

(g) If an entity enacts an ordinance pursuant to this section it shall, both two years and five years after enactment of the ordinance, report all of the following information to the Senate Committee on Transportation and Housing and the Assembly Committee on Transportation:

(1) A description of the ordinance, including the circumstances under which an alleged violator is afforded the opportunity to complete the administrative process.

(2) The amount of the administrative penalties.

(3) The number and types of citations administered pursuant to the ordinance.

(4) To the extent available, a comparison of the number and types of citations administered pursuant to the ordinance with the number and types of citations issued for similar offenses and administered through the courts both in the two years prior to the ordinance and, if any, since enactment of the ordinance.

(5) A discussion of the effect of the ordinance on passenger behavior.

(6) A discussion of the effect of the ordinance on revenues to the entity described in subdivision (a) and, in consultation with the superior courts, the cost savings to the county courts. The superior courts are encouraged to collaborate on and provide data for this report.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 640 of the Penal Code proposed by both this bill and Assembly Bill 492. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 640 of the Penal Code, and (3) this bill is enacted after Assembly Bill 492, in which case Section 1 of this bill shall not become operative.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 99580 of the Public Utilities Code proposed by both this bill and Assembly Bill 492. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 99580 of the Public Utilities Code, and (3) this bill is enacted after Assembly Bill 492, in which case Section 2 of this bill shall not become operative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime

within the meaning of Section 6 of Article XIII B of the California Constitution.

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